

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
(Greenbelt Division)

In re:
KEMPES JEAN,
LORI LEE JEAN,
Debtors.

KEMPES JEAN, *et al.*,
Plaintiffs,
v.
SARI KURLAND, *et al.*,
Defendants.

Case No. 20-10883-LSS
(Chapter 7)

Adv. No. 23-00017

JOINT MOTION FOR REFERRAL TO MEDIATION

Debtors/Plaintiffs and Defendants, by and through undersigned counsel, hereby file this Joint Motion for Referral to Mediation (the “Motion”), and state as follows:

JURISDICTION:

The Bankruptcy Court has subject matter jurisdiction over this contested matter pursuant to 28 U.S.C. §§1334 and 28 U.S.C. 157(a). Venue is proper herein pursuant to 28 U.S.C. §1409.

FACTUAL STATEMENT:

On or about January 22, 2020 (the “Petition Date”), Debtors/Plaintiffs filed a voluntary petition for Chapter 7 under the Bankruptcy Code of 2005 (the “Code”).

On or about January 20, 2023, Debtors/Plaintiffs filed this adversary action against their former attorneys for legal malpractice.

The Parties have engaged in preliminary discovery and provided the other with answers to interrogatories, documents and reports of their experts. The Parties believe and thus aver herein that a referral of this matter for court sponsored mediation would be both helpful and appropriate. The Parties have agreed to Judge Thomas J. Catliota as mediator.

ARGUMENT

This adversary proceeding remains a potential costly event for the Parties. As the Bankruptcy Court is aware, such actions premised in this Motion have their basis in the Local Rule itself, which in pertinent part provides that “with the consent of the Judge, the parties may select a Resolution Advocate who is not a member of the Panel, who shall be subject to the applicable provisions of this Rule.” Local Rule 9019-2(d)(4). Further basis exists in the duties implied to encourage cost effective case management by Rules Committee set forth in Fed. R. Bankr. P. 7016(a)(1), (2) and (5), which are purposed at resolving matters in a pragmatic way in the federal court system. See, also 11 U.S.C. § 105(a). This relief is sought pursuant to 11 U.S.C. §105(a) and Fed. R. Civ. P. 16(a)(1), (2) and (5), Local Rule 9019-2(d)(4), (5).

No memorandum is filed herewith pursuant to Local Rule 9013-2. Accordingly, the Court is requested to grant the Motion, appoint by request Judge Thomas J. Catliota for referral by mediation to all of the Parties herein.

WHEREFORE, the Parties request that the Court enter an Order: (i) granting this Joint Motion; and (ii) approving a referral for mediation by Judge Thomas J. Catliota; and (iii) granting such other relief as equity and justice may require.

/s/ Thomas O'Toole

Thomas O'Toole (10227)
totoolelaw@aol.com
Baroody & O'Toole
201 N. Charles Street, Suite 2102
Baltimore, Maryland 21201
Phone (410) 539-8410
Facsimile (410) 539-8411
Attorneys for Plaintiffs

/s/ Robert M. Gittins

Robert M. Gittins (28240)
ECCLESTON & WOLF, P.C.
Baltimore-Washington Law Center
7240 Parkway Drive, 4th Floor
Hanover, MD 21076-1378
(410) 752-7474 (phone)
(410) 752-0611 (fax)
E-mail: gittins@ewmd.com
Attorney for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of April 2024, a copy of the foregoing document was serve via ECF to Robert M. Gittins, Eccleston & Wolf, P.C., Baltimore-Washington Law Center, 7240 Parkway Drive, 4th Floor, Hanover, MD 21076-1378.

/s/ Thomas O'Toole

Thomas O'Toole